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OUR NEW DEPARTURE

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By MOORFIELD STOREY



OUR NEW DEPARTURE

1. LETTER TO A FRIEND

OCTOBER 21, 1899

2. SPEECH AT BROOKLINE

OCTOBER 26, 1900

BY

MOORFIELD STOREY

BOSTON

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Ms. A. 9. 2. 8. 170

LETTER TO A FRIEND.

BOSTON, MASS., Oct. 21, 1899.

My dear A, — I read Mr. Thayer's article in the *Harvard Law Review*, with which you tell me you agree, when it first appeared, and gathered from it that we differed because, like some others, he had ceased to believe in the Declaration of Independence. I have now read it again carefully; but I am still unable to see how you can think that you uphold the Declaration and the doctrines of Lincoln, while you approve the war now waged upon the Filipinos. I think Mr. Thayer has lost sight of some vital distinctions, and I will state my position briefly. To answer his article fully would require more than a letter.

Let me say at the outset that I cordially agree with him in thinking that America's duty was "to illustrate how nations may be governed *without wars* and without waste, and how the great mass of men's earnings may be applied, not to the machinery of government, or the rewarding of office-holders, or the wasteful activities of war, but to the comforts and charities of life, and to all the nobler ends of human existence." I am not willing, however, to admit that the Spanish War must result in the abandonment of this great mission.

He begins his article by apparently assuming that the rulers of our choice have so far committed us to a reversal of our "whole traditional policy" that we must accept the result. His conclusion is that "we no longer have before us the question of whether we will take in extra-continental colonies or not." That in his judgment is settled.

I agree that our rulers can embark us in war, and that we cannot wipe out some of their acts; but I do not think they can commit us irrevocably to any policy. I believe with Charles Sumner that "nothing is settled that is not settled right." Had you entertained in your youth such views as you now express, you would hardly have hoped to save Kansas for freedom, to keep slavery out of the territories, or to abolish it altogether. Certainly our rulers for

years committed us to slavery as fully as possible, and buttressed it with vested rights of every kind, We did not consider their acts as "spilled milk," to use your illustration.

We doubtless agree that Congress alone can determine what shall be done with territories of the United States, and that Congress has not taken any action respecting the territories lately governed by Spain. To quote Mr. Thayer's words, "We may, subject to the agreements of the treaty, sell them if we wish or abandon them, or set up native governments in them with or without a protectorate, or govern them ourselves."

This being so, the whole question is open; and we all are bound to see that, of the possible courses thus suggested, the right one is chosen. When he says, "We are no longer considering the expediency of entering upon a foreign colonial policy: we have already begun upon it," he seems to deny what he has admitted, that we may abandon the new territories and resume our great mission if we will. What is our duty in the premises?

Before discussing the real issue between us, there are some general observations which I should like to make. The first is that our practice in the past is no argument for a new departure from the true path. Precedents may make law, but not morals. You cannot argue that, because this free nation, professing to believe in the principles laid down in the Declaration of Independence, has done certain acts, therefore such acts are consistent with these principles. As well argue that the practices of "His Most Christian Majesty," of ecclesiastical potentates, or of the popes themselves, are to be taken as proving what Christ meant by his teachings. Our whole treatment of the colored race for years was in violation of our principles, and we paid bitterly for our sin. The Declaration sets up the standard to which we should conform. Our failures in the past are to be regretted, not repeated.

The second is that the practices and theories of other nations are no guide for us in this case. They one and all recognize the law of might, the right of conquest, which under our system is regarded as "criminal aggression." They all claim the right to govern men without their consent, and to sell territories without consulting their inhabitants. Our government was founded upon a denial of that right.

The third is that there is a distinction, which you seem sometimes

to forget, between the rights which we have under international law and those which we have under our own theories of popular liberty. Our title to the territories taken from Spain must be recognized by any foreign nation. The question for us is our title against the inhabitants of these territories.

Now I believe that "governments derive their just powers from the consent of the governed," that "taxation without representation is tyranny," that all men are created with equal political rights. I think these are statements of ultimate political truth, resting upon the ethical principles taught by Christ, and that you cannot depart from them without paving the way for disastrous consequences. I believe exactly in the statement of Lincoln:—

"The authors of the Declaration of Independence meant to set up a standard maxim for free society, which should be familiar to all and revered by all, constantly looked to, constantly labored for, and, even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence and augmenting the happiness and value of life to *all people of all colors everywhere*."

You speak of the "large utterances" of the Declaration, and you said, when we met, that, if we desired to annex an island with a population of savages, we should have the right to govern them as we saw fit, because they would obviously be incompetent to govern themselves. This means that you would decide for your fellow-man without consulting him, *first*, that he is savage, and, *second*, what sort of government is best for him; and then you would force him to accept it. You would decide for yourself that you are wiser and better than he, and by superior strength compel him to obey you. This may be a tenable position, but it is not consistent with the Declaration of Independence. Lincoln stated and answered your views thus:—

"They said, *Some men are too ignorant and vicious to share in government*. Possibly so, said we, and by your system you would always keep them ignorant and vicious."

"No man is good enough to govern another without that other's consent. I say this is the leading principle, the sheet anchor of American republicanism.

"When the white man governs himself, that is self-government; but, when he governs himself and also governs another man, that is more than self-government,—that is despotism."

I think that, upon comparing your position with Lincoln's, you must admit that you do not believe in the Declaration as Lincoln interpreted it. I do, and here is one main difference between us.

Mr. Thayer's contention, as I understand it, is that Congress has the power to acquire foreign territory and govern it as it sees fit, that the inhabitants of territory so held have no rights under our Constitution, and that Congress in the case before us should never under any circumstances give these inhabitants the rights of American citizens.

I think I state his conclusion correctly. His words are: "Let me at once, and shortly, say that, in my judgment, there is no lack of power in our nation, of legal, constitutional power, to govern these islands as colonies, substantially as England might govern them. . . . The conclusion seems, as I am inclined to believe it, a just one that the Constitution generally was not meant for the territories, except as it may in any place expressly or plainly indicate otherwise." He concludes by saying, "Never should we admit any extra-continental State into the Union: it is an intolerable suggestion," and by recommending an amendment to the Constitution which would prevent their admission.

In a word, to deal only with the Philippine Islands, ten millions or more of men without their consent are to become for all time subject to the absolute control of our Congress, with no constitutional rights and no possibility of acquiring them. They may be taxed under a tariff or otherwise by a legislature in which they are not represented. They may be denied the writ of habeas corpus, the right of trial by jury. Their property may be taken without due process of law, their dwellings and their persons searched without a warrant,—in a word, they become our vassals, to be dealt with as Congress may at any time see fit. Does it not seem to you that this is a strange conclusion for a man to reach who professes to believe in the Declaration of Independence? Is it not a remarkable interpretation to place upon language used by men who had helped to frame that Declaration, who had jeopardized in its defence "their lives, their fortunes, and their sacred honor," and who at the close of the Revolution through their Congress said,—

"Let it be remembered that it has ever been the pride and boast of America that the rights for which we contended were the *rights of human nature?*"

A result so astonishing should lead you to reconsider the argu-

ments on which it rests. It is no answer to say that our purposes are benevolent, and that we shall use this power wisely. It is a question of right. As our fathers said, "The right to take ten pounds implies the right to take a thousand"; and human history shows that absolute power over an alien people can never safely be intrusted to any man or any legislature.

In my judgment, no such power exists. The purpose of the Constitution is expressed in its preamble; and this shows that we framed a government in order to secure certain benefits to the people of this country, and especially to insure for them and their children the blessings of liberty, not to engage in the business of administering despotically the affairs of foreign nations. It is a government of limited powers; and I cannot accept the proposition that a Congress and a President who derive all their power from the Constitution can hold under their sway vast regions over which the Constitution does not extend, and deny to the inhabitants of these regions the blessings of constitutional liberty. Our legislative and executive officers are trustees who hold their powers in strict trust, defined by a written instrument. I cannot find among these carefully enumerated powers any which authorize the President and Congress of the moment to undertake the conquest and government of foreign nations, because they believe or pretend to believe that they can govern such nations better than their existing rulers. Not for any such loose benevolence were they given control of our lives and our property. Nor is there in our history any precedent for such action. Till now we have made no war except in the real or pretended interest of this country.

Let me now examine the steps in Mr. Thayer's argument. He begins by pointing out that we have done many things which at the time were denounced as unconstitutional. Very likely; but can any inference be drawn from this? Certainly not that leading statesmen and lawyers are always wrong when they insist that proposed action is unconstitutional. Men who preceded them may have been wrong or right. The country may have acquiesced in action clearly unwarranted by the Constitution, but such acquiescence does not make it constitutional. Some opponents may have been wrong, but it does not follow that all opponents are wrong. This part of the argument does not help us now.

He then makes a general statement as to the powers of the general government, saying, "It may do what other sovereign nations

may do." In this statement he seems to confuse two essentially different things. As against other nations, the federal government is sovereign. None of them can question its absolute power. As against its own citizens and subjects, its powers are limited. The United States can in war do whatever Russia can do against a foreign enemy. The Czar can send any subject to Siberia without trial. The government of the United States cannot deprive its meanest subject of liberty or property without due process of law, nor can its officers enter the humblest cottage without the warrant of a court. The question which we are considering is what rights our agents, the President and Congress, have as against the persons whom they govern,—what position we as a nation must take toward *our* citizens or subjects.

Mr. Thayer says that "the power of acquiring colonies is an incident to the functions of representing the whole country in dealing with other nations and States, whether in peace or war. The power of holding and governing them follows necessarily from that of gaining them." These statements confuse the distinction which I have pointed out. No other nation can deny our right to conquer a foreign country. We ourselves, however, are bound by our own principles *not* to conquer, but to govern by consent, and, wherever we govern, to recognize that all other men have the political rights which we claim for ourselves.

He undertakes to find a warrant for the rights which he claims over the Philippines, in our dealings with the Indians, and in our government of the territories and the District of Columbia, and asks: "Has it been un-American to govern the territories and the District of Columbia as we have? Has it been contrary to the fundamental principles of free government or the Declaration of Independence? Has it tended to the degradation of our national character?" It is singular to me that he should find any parallel between the government of the District of Columbia and the conquest of the Philippines; but, as he does, let me point out the distinctions which he overlooks.

Take the Indians first. We found these tribes occupying vast regions of territory, upon certain parts of which they dwelt and over most of which they occasionally travelled. There were large tracts entirely unoccupied or in dispute between different claimants. There were no clear boundaries, no unquestioned sovereignty. Into these vast regions were pouring emigrants from every

part of the world ; and our government, occupying at the outset only a fringe of the continent, has been compelled to regulate the process by which these regions were settled.

We have treated the tribes throughout as independent nations. We have purchased their title to lands, which they claimed, by money and by agreements to furnish food and other supplies. We have never taxed them nor undertaken to regulate their internal affairs. Their chiefs have remained in power, and their independence has been respected. We have dealt with them regularly by treaties, and in law we have never considered them as citizens or subjects. When we have taken land by treaty, it has been land alone, and not inhabitants, so that we have not claimed the legal right to tax them or to govern them as our subjects without their consent. The Supreme Court of the United States has held that they are "alien nations," "distinct political communities" (*Elk v. Wilkins*, 112 U. S. 94 at p. 98; *U. S. v. Wong Kim Ark*, 169 U. S. at pp. 680, 681). This theory in no way conflicts with the Declaration of Independence or with our political principles.

Our practice, you will say, has not squared with our theory, and I admit this ; but the result has been a "century of dishonor." No American — least of all, as I know, yourself — can find any cause for just pride in our dealings with the Indians, or treat our course as a precedent to be followed with another race. We have, as Mr. Thayer says, held them "in the hollow of our hand," and we have abused our power ; but we have not abandoned our theories of government.

As for the territories, he says, Congress has absolute power over them, and is not bound to give them republican institutions. As a matter of fact, Congress has always recognized an obligation to do so. These territories, originally vacant lands, except so far as the Indians occupied them, were filled up by emigrants who went there to organize States. They went knowing how they would be governed and anticipating exactly what they received. As soon as they became numerous enough to make their civil government important to them, they have been allowed to choose their legislatures and to make their own laws. They have been partly represented in Congress by their delegates, though these had no vote. They have framed their own constitutions, and have been admitted as States when their population has become sufficient. At every step the inhabitants have been American citizens volun-

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tarily going into unsettled districts, and there organizing free government. Congress has insisted that their constitutions should exclude or permit slavery, and has passed certain laws affecting them; but the territorial condition has been a period of organization, a temporary phase, to which every emigrant has consented by going there voluntarily.

Especially is this true of the District of Columbia, a small territory ceded by two States to the general government for a capital. Its inhabitants at any given moment are largely citizens of other States, who are there because they are in the service of the United States. With few exceptions, they have gone there knowing how they were to be governed and that Congress would be their only legislature. All are apparently satisfied with their position. This is consent to the government, and the government of the District is no more inconsistent with the Declaration of Independence than is the military discipline to which the citizen subjects himself by enlisting in the army.

The difference seems to me clear between governing as we do our own capital city and our territories while they are becoming States, both peopled by men who have voluntarily submitted to the governments there in force, and endeavoring to impose our will upon some ten millions of foreigners by fire and sword. It is a perversion of terms, in my judgment, to call the District of Columbia and the territories colonies.

Mr. Thayer next assumes that the Constitution does not extend to the territories, and disposes of a mass of authority to the contrary by saying, "It would be easy to cite *dicta* and even decisions that extend the Constitution and what we call its Bill of Rights to the territories, but no judicial decision yet made has thoroughly dealt with the matter or can be regarded as at all final on a question so very grave." He admits that "it is probably the prevailing legal opinion to-day that the citizen of a territory is a citizen of the United States, and that children born in the territories and subject to our national jurisdiction are citizens of the United States." It is curious that he qualifies this statement by the word "probably." This proposition is universally admitted. No one ever suggested that a person born in a territory, of foreign parents, must be naturalized to become a citizen of the United States. The law on this point is well settled. (*United States v. Wong Kim Ark*, 169 U. S. p. 693.) Congress cannot grant or withhold the rights of

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citizenship secured by the Constitution, as would be the case if Congress could at pleasure make the Filipinos American citizens.

"Probably also," he continues, "it is the prevailing legal opinion, supported by some judicial decisions, that the territories are a part of the United States, not merely in the eye of internal law, as all agree, but in the sense of our municipal law, so that, *e.g.*, as judges have said, taxes must be uniform there and in the States."

Again, a curiously qualified statement, when it is remembered that the Supreme Court of the United States has established this exact proposition in a carefully considered case,—*Cross v. Harrison*, 16 Howard, 164,—where the court held that as soon as the treaty of peace with Mexico was ratified, and before any action by Congress, the Constitution extended our tariff law over California, which was ceded by that treaty, through the clause which makes "duties, imports, and excises . . . uniform throughout the United States," saying, "The ratification of the treaty made California a part of the United States." Nor should we forget that Chief Justice Marshall, in *Loughborough v. Blake*, 5 Wheaton, 318, said that the grant of power to tax given by the Constitution to Congress extends to all places over which the government extends, "and must be exercised throughout the United States," adding: "Does this term designate the whole or any particular portion of the United States? Certainly, this question can admit of but one answer. It is the name given to our great republic, which is composed of States and territories."

These decisions and others that might be cited make it clear why the prevailing legal opinion is against Mr. Thayer's contention that the Constitution does not restrain the power of Congress over the territories. This opinion I share; and I doubt whether Mr. Thayer would hold that Congress could take from the citizens of Washington or New Mexico their right to a trial by jury, their right to be paid for property taken by eminent domain, and the other rights secured by the Constitution to citizens of the United States. He quotes some words of Chief Justice Marshall. He should remember also that in *Pollard v. Hagan*, 3 How. 312, Mr. Marshall said: "It cannot be admitted that the King of Spain could, by treaty or otherwise, impart to the United States any of his royal prerogatives; and much less can it be admitted that they have capacity to receive or power to exercise them. Every nation acquiring territory, by treaty or otherwise, must hold it subject to the Constitution and laws of its own government."

The law may be changed, but at present it is settled against Mr. Thayer's contention, not only by the weight of professional opinion, but by the Supreme Court of the United States. I may say that any other decision would lead to consequences so monstrous that no change seems to me probable. Under the law as it stands, his plan of dealing with Puerto Rico and the Philippines is impossible. I think you must recognize this if you read the decisions carefully.

Mr. Thayer then speaks of men, who think as I do, in these words: "When people permit themselves to talk, then, of vassal states and subject peoples, as if the necessary condition of colonies, say of Canada or Australia, or of our territories, were one of slavery, when they talk of holding colonies as contrary to the spirit of our free institutions, of its being un-American, and having a tendency to degrade our national character," and asks, "Has England suffered in her national character by governing Canada and Australia as she does?", I think he is hardly fair.

Canada and Australia are self-governing communities. In both cases, Englishmen have settled foreign lands, anxious to remain British subjects and anxious to retain the protection of the British flag. They choose their own legislature, they make their own laws, they impose their own taxes, they levy duties under a protective tariff upon English goods. They are in substance independent States, remaining under a British protectorate because they desire it. If they wished independence, it would at once be conceded. England does not govern them in any real sense, and of course she has not "suffered in her national character" by her nominal connection. No one speaks of Canada and Australia as "vassal states," but Mr. Thayer does not propose to give the Filipinos such a government as Canada and Australia enjoy. If we did, this is all that the Filipinos ask; and the war may end tomorrow. He proposes to make them surrender unconditionally to our will, and, without consulting them, to give them such a government as we see fit, without the rights secured by our Constitution and subject to change at the will of Congress. States subject to the absolute will of another State are properly described as "subject peoples," or I do not know what language means. Canada and Australia afford no precedent for this.

The example of England is cited, but the fact is ignored that our very existence as a nation is a proof that we do not accept the principles upon which her colonial empire rests. England has

a monarch who is Queen of England and Empress of India. We have never contemplated a ruler who should be President of the United States and Emperor of the Eastern Archipelago, either in name or fact. This is sufficient to indicate the difference between our political systems. England moves in various ways. In Egypt she intervened to suppress an insurrection against the Khedive, the vassal of the Sultan. His government is still maintained. Lord Kitchener took his title of Sirdar from Egypt, not from England, and won his victory mainly with Egyptian troops. Englishmen advise the Khedive, hold office under him, command his troops. This is the legal theory, and it is not long since the English government refused to declare even a protectorate. You do not propose to treat the Philippines in this way.

The English government in India is more nearly like what you would establish in our new possessions,—a government in which the natives have only the trifling part which their rulers choose to concede. This is nearly an absolute despotism. India was first won by the East India Company, which enriched itself at the expense of the natives. Clive and Edmund Burke have told us how. England as a nation was afterwards forced to intervene; and to-day the Indian people are as far from self-government as ever. Englishmen like Goldwin Smith see that India would have been further advanced to-day, had her people been left to work out their own destiny. Gladstone and Disraeli concurred in saying that India was a source of weakness, not of strength, to England. Trevelyan tells you how the conquest of India was followed by a period of great corruption at home. Neither the ruler nor the subjects have profited; and the case proves the truth of Lincoln's words, already quoted, that such a system "keeps the people ignorant and vicious." We shattered the government of Mexico half a century ago, and left her to work out her own salvation. Can you doubt that the Mexican people are better off to-day than if we had tried to govern them as you wish to govern the Filipinos?

You propose to establish a benevolent and excellent government. You think that our rulers can frame for these men, whom you call savages, a better government than can be framed for them by the educated men of their own race, who form the present Philippine Parliament. So much depends on sympathy between ruler and subject that government is not likely to be successful where such sympathy does not exist, as it cannot exist between men of differ-

ent races, different antecedents, different standards, different methods of thought, different language. The Spaniards came to this country with benevolent professions and intentions. We went with like purposes to the Sandwich Islands. In both cases the result has been the same. The natives become extinct, and their room is occupied by other people. The stronger crowd the weaker out, and the weaker die. The result may be that in a given region a good population is established, which otherwise might have remained at home; but the savage is not governed so well. He may naturally think that a government of his own, however poor, which lets him live, is better than a more enlightened political system, which exterminates him. If there is any benevolence in such cases, it is benevolence to the invaders who thrive on the graves of the invaded. I cannot understand how you, so familiar with our failure to benefit the Indians and with the doubtful future of the negro at our hands, can suppose that we shall display a hitherto unsuspected power in dealing with a distant people whom we already call alternately "niggers" and "Indians." The words are of ill-omen, and I do not wonder that the Filipinos object to being made the subject of our experiments in colonial government. I am sure that their fears are well founded.

Mr. Thayer seems to expect that our new policy will bring us "a larger and juster style of political thinking . . . and a sober type of political administration." I do not know where, in our experience, he finds any warrant for this hope, whether we recall the reconstruction period or read of our present methods in Luzon. If it were so, I should doubt our right to slaughter Filipinos in order to improve ourselves. As I read history, Athens, Rome, and Spain owed their decay to just the policy which you advocate. I hope that my country may be spared a similar fate; but my opposition to this war rests upon the conviction that this attempt by force to subjugate a weak people is a crime, repugnant alike to the principles upon which this government rests and to the fundamental law of morals, and, if it is such, no advantage to ourselves can excuse it.

This letter has very likely interested me more than it will you, and it may strike you as unduly polemical; but it is written with sincere respect for you, and in the hope that some suggestion in it may lead you to reconsider your present opinion.

Sincerely yours,

MOORFIELD STOREY.

SPEECH AT BROOKLINE.

Mr. Chairman and Fellow-citizens of Brookline :

The question presented to the voters of this district is not a question of persons. It is a question of principles: it is a question of freedom, and each man must answer it upon his conscience. Will you join in refusing to others that liberty which you claim for yourselves,—which you have always believed to be the inalienable birthright of every man, no matter what his race or his color? Will you now deny the truths which for more than a century we have called self-evident? Will you abandon the ideals of free America, and approve the principles and practices of despotism? This is the question which you will answer when you cast your votes,—a question which, as Senator Hoar has well said, “is greater than parties, greater than administrations, greater than the happiness or prosperity of a single generation.” Upon this question what shall be the voice of this district in the next Congress?

The supporters of the President try in various ways to evade this issue. Thus Senator Lodge said at Pittsfield: “We are not going to pull down the flag while it is being shot at. We have never done it, and never will.” This is a mere appeal to passion. Whether the flag is rightly resisted or not, whether some officer or agent of ours has wrongly attacked a peaceful neighbor or not, no matter how criminal our aggression, no matter how just the resistance,—if a shot is fired against us, this mighty nation in blind wrath must crush its opponent, not asking nor caring whether it is right or wrong. This doctrine dethrones God, and makes a deity of bunting. Is this the voice of free, Christian Massachusetts?

They repeat the cry of “Our country, right or wrong,” demanding in the sacred name of our country that we support the party in power, whether right or wrong. I deny that Mr. McKinley, Mr. Hanna, Mr. Lodge, or any other politician for the day in office, or all together, are my country. I deny that they may commit us to a bloody and needless war, and then insist that those who oppose their policy are not patriots. The doctrine that the king

can do no wrong has no place in a republic and no application to its servants. It has ever been a buttress of despotism. Mr. Schurz has given a far higher and truer meaning to these words: "Our country, right or wrong: if right, to be kept right; if wrong, to be set right." This is the true rule of the patriot.

Let me, if I may, address your reason and your conscience. If the facts do not support my contention, you will reject it. Appeals to prejudice and passion obscure the truth, and are the arguments of orators whose case is bad. I would present our case on its merits.

The ablest defender of the administration is the President himself, who, in his letter accepting his renomination, has undertaken "to give the people authentic information of the acts and aims of the administration," and who is clearly in a position to do so. He says that "imperialism has no place in its creed or conduct. Freedom is a rock upon which the Republican party was built and now rests. . . . It will not be guided in its conduct by one set of principles at home and another set in the new territory belonging to the United States." If he is right, there is an end of the discussion. Mr. Reed may return to public life. President Harrison may approve his successor's policy without reserve. Senator Hoar need no longer lament his difference with the President.

I propose to compare the assertions which I have quoted with the undisputed facts, to the end that we may at least understand in what sense the President uses language, and may place their true value upon the benevolent phrases which he employs so freely. We may begin with Porto Rico; for here the essential facts are embodied in a statute with which the President is entirely familiar. Of this he says:—

"Congress has given to this island a government in which the inhabitants participate,—elect their own legislature, enact their own local laws, provide their own system of taxation,—and in these respects have the same power and privileges enjoyed by other territories belonging to the United States. . . . The generous treatment of the Porto Ricans accords with the most liberal thought of our own country, and encourages the best aspirations of the people of the island."

"*The inhabitants participate,—elect their own legislature.*" The Statute, 56 Cong. 1st Sess. c. 191, establishes in Porto Rico a

"legislative assembly" consisting of *two houses*. The upper house, known as the executive council, consists of eleven members, of whom six are the leading executive officers of the island under the governor, who are required to reside there while in office, and five must be native inhabitants of Porto Rico. The members of this council are all appointed by the President, with the consent of the Senate; and they may be removed at his pleasure. The lower house consists of thirty-five members, elected biennially, by such of the people as are allowed to vote. The qualifications of voters for the first election were fixed by "the laws and military orders in force on the first day of March, 1900, subject to such modifications and additional qualifications" as were "prescribed by the executive council." They can be changed by an act of the assembly. The legislature thus constituted may pass laws subject to the veto of the governor, as here; but all their acts may be annulled by Congress. The cherished provision of Anglo-Saxon constitutional law, that money bills must originate in the house which directly represents the people, is annulled by an express proviso that "all bills may originate in either house."

The governor of the island and the judges, with the exception perhaps of inferior magistrates, are appointed by the President or the governor.

The executive, judicial, and legislative powers of Porto Rico are therefore directly under the control of the United States, and substantially in the hands of the President, through his power of appointment and removal. Such inhabitants "participate" in the government as the officers of the United States have permitted or may hereafter permit to do so. Their participation is limited to the choice of one house in the legislature; and, as no law can be passed without the assent of both houses, the representatives of Porto Rico cannot pass the simplest act except by the consent of the President's appointees. There is, therefore, in Porto Rico no legislature independent of the President's will; and the people of that island are deprived of any power to resist him. Does the language "a government in which the inhabitants participate, — elect their own legislature," — fairly describe the government of Porto Rico? Would the people of Massachusetts elect their own legislature if a foreign ruler appointed all the senators?

"*Enact their own local laws.*" How is this statement reconciled with the law as quoted? How does it agree with the proviso in

the statute "that all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature shall be made by the executive council with the approval of the governor, and all franchises granted in Porto Rico shall be reported to Congress, which reserves the power to annul or modify the same"? Is there anything more purely "local" than the laws which regulate the terms upon which water, gas, or electricity shall be supplied to a community, or those which determine the relations between the people and the men who furnish transportation or other public services? In America these are largely subject to municipal control, but in Porto Rico the representatives of the people have no voice in regard to them. These are sources of profit, and therefore are kept under the control of the President through his appointees, subject also to the veto of Congress.

"*Provide their own system of taxation.*" The President in these words refers to local taxation; but, since the representatives of Porto Rico are powerless to legislate at all, save with the approval of men in whose selection they have no voice, they are equally unable to determine their own taxes.

"*In these respects have the same power and privileges enjoyed by other territories belonging to the United States.*" If we look at the statutes of the United States regulating the government of territories, we shall find that the inhabitants choose both houses of their legislature, and that every male citizen of the United States over twenty-one years of age, who is an inhabitant, may vote, including those who have declared an intention to become such. We have in these territories no upper house appointed and removable by the President, no control of the suffrage by the President's appointees.

But, if we leave out from the sentence last quoted the words "in these respects," we find far wider differences. In Porto Rico the statute declares that "all inhabitants continuing to reside" there, "who were Spanish subjects on the eleventh day of April, 1899, and then resided in Porto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States; and they, together with such *citizens of the United States* as may reside in Porto Rico, shall constitute a body politic, under the name of the people of Porto Rico." This statute is, in my opinion, unconstitutional; but it is the law which the President is describing in the

words I have quoted. It is to-day the law under which the Porto Ricans live. By this law these unhappy persons cease to be citizens of Spain, and do not become citizens of the United States. They are only citizens of Porto Rico.

The first striking consequence is that tariff duties are imposed upon merchandise passing either way between Porto Rico and the United States; and these duties — the most important, and, in their effect upon the business of the island, the most far-reaching taxes which the inhabitants of Porto Rico pay — are levied without their consent and against their protest by a legislature in which they have no representation. The inhabitant of every other territory — save those acquired from Spain — pays no such taxes, and in this respect the inhabitants of other territories enjoy powers and privileges denied to the inhabitants of Porto Rico. If "taxation without representation is tyranny," as we have always believed, this difference is not to be ignored.

But this is only one instance of a fundamental and vital distinction. The inhabitant of Porto Rico to-day has no constitutional rights. If the provision of the Constitution which regulates taxes does not apply in Porto Rico, no other provision has any force in that island. Do you appreciate what this means? It means that such rights as Congress has now given Porto Rico may be taken away at its pleasure, and that the power of the President and Congress over the lives, the liberty, and the property of Porto Ricans is unfettered by any organic law. The struggle of men for freedom has been for centuries a struggle to restrain the absolute power of the ruler by constitutional limitations which bind the government itself. At an early period of this discussion Senator Lodge exclaimed with oratorical effect, but at no great personal risk, "To the American people and their government I am ready to intrust my life, my liberty, my honor." Would Senator Lodge repeal the Constitution of the United States? Would he even trust his property to the legislature of Massachusetts if Massachusetts were without a constitution? Would the capitalist trust any legislature, national or local, with unrestricted power to take his property, to tax it, to regulate its use? Would the laboring man feel that his interests were safe if a legislature that capital might control had absolute power over his hands, and might prevent all forms of labor union? Would the press feel secure if the censorship in Luzon could be extended to the United States? Free

speech, a free press, the free exercise of religion, the trial by jury, the writ of habeas corpus, just and equal taxation, compensation for property taken for public use, are all constitutional rights. They are secured to every citizen who resides in New Mexico or Arizona, but the inhabitant of Porto Rico has no such rights. If we will ask ourselves what it would mean to us if all our constitutions were annulled, we shall appreciate the condition of the Porto Rican. If we go further, and ask what it would mean to us if, besides losing all constitutional rights, we were governed not by our fellow-citizens,—men whose traditions, whose habits, whose language, whose desires were our own, but by a foreign country,—we can realize his position even better. Nor is the Porto Rican reassured by such words as the following, used by Senator Lodge in his speech as the president of the Republican Convention:—

“We make no hypocritical pretence of being interested in the Philippines solely on account of others. While we regard the welfare of these people as a sacred trust, we regard the welfare of the American people first. We see our duty to ourselves as well as to others. We believe in trade expansion.”

The citizen of Porto Rico to-day has no American citizenship, no constitutional rights, no representation in the legislature which imposes the most important taxes that he pays, no voice in the selection of his executive or judicial officers, no effective voice in his own legislature. He is governed by a foreign nation under a law which he had no part whatever in framing, and the Republican party offers the island no hope either of independence or of statehood. This is government without the consent of the governed. This is what is meant by “imperialism.” In the words of Abraham Lincoln, this is “despotism.” To this policy under whatever name our people have always been opposed.

Is it really true that this treatment of a people who received us with open arms, and to whom our representative, General Miles, promised “the immunities and blessings of the liberal institutions of our government,” is generous? Does it really “accord with the most liberal thought of our own country”? When he says that it does, has the President forgotten that only last December he said?—

“It must be borne in mind that since the cession Porto Rico has been denied the principal markets she had long enjoyed, and our tariffs have continued against her products as when she was

under Spanish sovereignty. . . . She has lost her free intercourse with Spain and Cuba without any compensating benefits in this market. . . . Our plain duty is to abolish all customs tariffs between the United States and Porto Rico, and give her products free access to our markets."

Does he not remember the revolt which followed his change of policy? Do we not know that the tariff which was enforced was laid in the interest of America, and not of Porto Rico? As Senator Lodge so frankly admitted, we did "regard the welfare of the American people first." Can the supporters of the President pretend, with these facts fresh in their memory, that the treatment of Porto Rico "accords with the most liberal thought of our country"? Or can we be surprised that Mr. Semple, the agent of the treasury, on his return from a recent trip in Porto Rico, reported as follows? —

"I travelled from San Juan to Ponce, through Arecibo and Aguadillo, and covered the entire island. I found the majority of the natives opposed to the United States, whereas I had been led to believe that they welcomed Americans with open arms."

This evidence tends to show that "the best aspirations of the people" need further encouragement; and no one who reads the law under which Porto Rico is governed can doubt its truth, or expect to find any friendship for the United States among its inhabitants, save perhaps that eye friendship, which is simulated from fear of loss or hope of gain.

When we pass to the Philippine Islands, we are met at once by a difficulty which should not exist. In the summer of 1899 the staff correspondents of the leading American newspapers stationed in Manila united in a statement to the public, in which they said: "We believe that, owing to official despatches from Manila made public in Washington, the people of the United States have not received a correct impression of the situation in the Philippines. . . . The censorship has compelled us to participate in this misrepresentation by excising or altering uncontroverted statements of facts, on the plea, as General Otis stated, that 'they would alarm the people at home' or 'have the people of the United States by the ears.'" This disclosure led to an outburst of public indignation, which was met on October 9, 1899, by a statement from the adjutant-general's office that the censorship was abolished. Somewhat later, on December 2, the censor himself declared that this

statement was not true, and that the censorship had never been abolished. On July 30 of this year appeared a despatch to the Associated Press from Manila, "edited by the censor"; and it is now in full force. Why General Corbin authorized the false statement has never been explained. It was a supporter of the President's policy who spoke of this censorship as "utterly un-American and insolently tyrannous." The result is that the American people are called upon to decide the most important question of policy ever presented to them in ignorance of the facts. The administration has kept the truth not from the Filipinos, but from us. General Otis's anxiety was not to avoid informing the enemy, but to avoid alarming "the people at home." The President owes us the whole truth. Why should we not have it?

Is not this subject of vital interest to every American? Will the truth weaken or injure us? No one can pretend that. It can injure the administration by setting "the people of the United States by the ears." This explains the censorship, explains the false statement that it was abolished, explains its persistent maintenance after we are told that the insurrection is over. The Philippine correspondent of the Associated Press says, "The censor had repeatedly told us, in ruling out plain statements of undisputed facts, that he was instructed, 'to let nothing go that can hurt the administration.'" This confirmation, however, is not needed. No one can doubt the motive which induces the administration to keep the facts from the people. There is no court of law and no jury which does not draw the most unfavorable inferences against him who suppresses evidence; nor can the President complain if such inferences are drawn against him. We must deal with the question in the light of such knowledge as we have. Fortunately, the whole truth cannot be suppressed. There are facts enough by which to test the President's statements.

And, first, it is clear that from the time when the President originally asserted sovereignty over the Philippines until now, a period of nearly two years, the President alone has dealt with the inhabitants. He has undertaken to govern them as he has seen fit, without consulting Congress. So far as they are ruled by the United States at all, they are ruled by him, who thus by his unfettered will controls millions of men. This certainly is unknown in our history heretofore.

When the Spanish War ended, the future of the Philippine

Islands became a pressing question. It was a question of the deepest interest to the people of the United States. To annex these islands or to control their government in any way meant an absolutely new departure from the policy of this country. Whether we admitted them as citizens or held them as subjects, the consequences must be far-reaching and momentous. To impose our sway upon them against their will, to conquer a nation of Asiatics by fire and sword, was the abandonment of every principle for which this country had stood. It was "criminal aggression." Surely, at such a crisis, it would have been natural under a republican government to consult the people. Before they were embarked in a "criminal aggression," their consent might have been asked. No one could pretend that the question had ever been decided by them. It was absolutely new. Yet Congress was not summoned; nor was even the advice of the Senate asked, as Mr. Lincoln and other Presidents have asked it, before committing the country to an important step. The American people were not consulted upon this issue, involving, though it did, their whole future and the future of free government throughout the world.

This question was of vital interest also to the people of the Philippine Islands. These millions of men, of whose language, whose history, whose capacities and possibilities we were absolutely ignorant, were surely entitled to be consulted as to their own future. The President knew that they desired and thought they had secured their independence. He knew that they had established a government which rested apparently on the consent of the people, and which was maintaining order outside of our lines. They regarded us as deliverers, and would have responded readily to kindly influences. The native leaders were certainly able to give us information as to their needs and desires. But the Filipino people were not consulted. Their ambassador was not received at Washington, and the doors of the Paris conference were closed against their envoys. Of the two peoples now unhappily engaged in a war which every one deplors, neither was permitted to express its will before the Treaty of Paris was made.

Not even all the commissioners whom he appointed to make the treaty approved the document which they signed. This is known, though the President has declined to allow his correspondence with them to be published. It was one man, and that man the President, who insisted upon taking the Philippine Islands

against the will of their people, and who, to do it, departed from all the traditions of our country. This proposition the President takes pains to establish by extracts from his instructions to the commissioners, which he has refused to publish in full,—a singular use of public documents under a free government. From the opening sentence in the first quotation, "It is my wish," down to the statement, "Again on November 13 I instructed the commission," the responsibility is clear. It was the President who, to quote his own words, could "see but one plain path of duty, the acceptance of the archipelago." No emperor in the world could have exercised more absolute power than did the President in deciding to take the Philippines. It is true that the Senate had to ratify the treaty; but the President's influence was controlling, and was fully exerted to secure ratification.

But what did the treaty mean? Let me answer in the words of Senator Lodge spoken on January 24, 1899, while urging ratification: "The treaty cedes the Philippines to us. When that treaty is ratified, we have full power, and are absolutely free to do with those islands as we please. . . . Suppose we ratify the treaty. The islands pass from the possession of Spain into our possession without committing us to any policy." This was the position of the administration's friends. What the Senate meant by ratification was shown by the resolution of Mr. Bacon, from which I quote the following words: "That in demanding and in receiving the cession of the Philippine Islands it is not the purpose of the government of the United States to secure and maintain permanent dominion over the same as a part of the territory of the United States, or to permanently incorporate the inhabitants thereof as citizens of the United States, or to hold said inhabitants as vassals or subjects of this government; and the United States hereby disclaim any disposition or intention to exercise permanent sovereignty, jurisdiction, or control over said islands." The fact that upon this resolution the Senate stood equally divided must have informed the President that upon the question of how we should deal with the Philippines the country was not decided.

Who should determine the question of policy which the treaty left open? The President himself gave the only answer, when a few days after it was ratified, in his speech to the Home Market Club in Boston on February 16, he said:—

"The whole subject is now with Congress; and Congress is

the voice, the conscience, and the judgment of the American people. Upon their judgment and conscience can we not rely? . . . Our priceless principles undergo no change under a tropical sun. They go with the flag." And Secretary Long, who followed him, emphasized this answer when he said that the rejection of the treaty "would have taken out of the hands of the people and put into the hands of one man, the President, absolute authority over the Philippines, limited only to the indefinite scope of what is called the war power, wielded by a purely military arm holding a naked sword. Think of that for imperialism. It is a great credit to the President that, like Julius Cæsar and George Washington, he has refused this offer of a 'kingly crown.' On the contrary, the good old democratic plan has been adopted of putting the disposition of these islands into the hands of the American people, who will duly express their will through their representatives in Congress assembled. I have no doubt the President is delighted to have the elephant off his hands, and on theirs."

When these words were uttered, the war in the Philippines was in its first and most acute stage. General Otis had a few days before refused Aguinaldo's request for a truce. Spoken under these circumstances, these speeches meant that the President would undertake no policy of his own, but would let Congress deal with the question. Least of all would he assume "absolute authority over the Philippines, limited only to the indefinite scope of what is called the war power, wielded by a purely military arm holding a naked sword" which Secretary Long described as real "imperialism." Yet from the day when those words were spoken till now we have had exactly this, and nothing else. It is Secretary Long who says, "*Think of that for imperialism.*"

"The voice, the conscience, and the judgment of the American people" has never been consulted. Congress was not called in extra session to decide the question upon which the Senate was equally divided or to make such a declaration of our purpose as might have ended the war. The President alone assumed "that absolute authority over the Philippines" which Secretary Long praised him for refusing. Congress met in regular session on December 5, 1899. Did the President hasten to express his pleasure that "the elephant was off his hands, and on theirs"? This is what he said:—

"It does not seem desirable that I should recommend at this

time a specific and final form of government for these islands. When peace shall be restored, it will be the duty of Congress to construct a plan of government which shall establish and maintain freedom and order and peace in the Philippines. The insurrection is still existing; and, when it terminates, further information will be required as to the actual condition of affairs before inaugurating a permanent scheme of civil government. . . . As long as the insurrection continues, the military arm must necessarily be supreme."

This was a distinct invitation to Congress to leave "the elephant" on his hands, and the invitation was accepted. But it will be observed that the question of holding the islands — the question upon which the Senate divided equally, the question which the treaty left open — was treated by the President as settled. His words are: "The islands lie under the shelter of our flag. They are ours by every title of law and equity. They cannot be abandoned."

Who settled this question? Not a Congress which had never considered it. Not the Senate which was divided. It was the President who on December 21, 1898, weeks before the treaty was ratified, before it was even submitted to the Senate, and, therefore, before he had a shadow of authority beyond "the city, harbor, and bay of Manila," as he himself admitted at Pittsburg, issued the proclamation which announced to the Filipinos that "the future control, disposition, and government of the Philippine Islands" had been "ceded to the United States," and proceeded, "In fulfillment of the right of sovereignty thus acquired and the responsible obligations of government thus assumed, the actual occupation and administration of the entire group of the Philippine Islands become immediately necessary; and the military government heretofore maintained by the United States in the city, harbor, and bay of Manila, is to be extended with all possible despatch to the whole of the ceded territory. . . . All persons who, either by active aid or by honest submission, co-operate with the government of the United States, . . . will receive the reward of its support and protection. All others will be brought within the lawful rule we have assumed with firmness, if need be, but without severity so far as may be possible."

When we remember that there was an organized government in Luzon recognized in the other principal islands, and that the army of this government, till then acting in alliance with us, lay just outside our lines; when we remember also that this army had been

raised to win the independence of the islands, and that this government had proclaimed this independence, — it is clear that the President's proclamation was a declaration of war. It ignored the established government, and proposed to occupy its territory by military force. General Otis admits that he thought it unsafe to publish it, and that he modified it in essential respects; but General Miller published it unchanged. It was the President, in the exercise of the war power, who from that day till now has wielded all the power of the United States in the Philippines. He has appointed two commissions; but Congress has never been asked to authorize either, to define their duties or to fix their salaries. They are the representatives of the President, responsible to him, and paid out of public funds such sums as he sees fit. He has instructed them "to devote their attention in the first instance to the establishment of municipal government, in which the natives of the islands . . . shall be afforded the opportunity to manage their own local affairs to the fullest extent of which they are capable"; that is, of which these commissioners think them capable.

This commission is to report when it is "of the opinion that the condition of affairs in the islands is such that the central administration may safely be transferred from military to civil control" . . . "with their recommendations as to the form of central government to be established for the purpose of taking over the control."

"Beginning with the first day of September, 1900, the authority to exercise subject to my control through the Secretary of War that part of the power of government in the Philippine Islands which is of a legislative nature is to be transferred from the military governor of the islands to this commission, to be thereafter exercised by them in the place and stead of the military governor . . . until the establishment of the central civil government for the islands contemplated in the last foregoing paragraph or until Congress shall otherwise provide."

Not content with "absolute authority" during war, the President is thus proposing by his own decree, through commissioners not created by law, to establish a civil government in the islands, to fix its terms, to make his commissioners the legislature, and, finally, to ask a compliant Congress to ratify his acts. As he says in his letter, "I directed that upon every division and branch of the government of the Philippines must be imposed these inviolable rules," enumerating certain of the constitutional safeguards of

freedom, and thus arrogating to himself authority without consulting Congress to determine what provisions of our Constitution should extend to subjects of the United States and which should not,— which of “our priceless principles should undergo no change under a tropical sun” and which should wither.

To an old-fashioned American the idea that the President can give or withhold constitutional rights is novel. This review makes it clear that at every step in this unhappy business, from the framing of the treaty till this hour, the President has exercised almost absolute authority. At no step has Secretary Long’s “good old democratic plan been adopted of putting the disposition of these islands into the hands of the American people.” If that was “the good old democratic plan,” how shall we characterize the plan that has been followed? What authority has the President refused to exercise, what responsibility has he laid upon Congress? Is not this exercise of absolute power over millions of people properly called imperial?

How does the President excuse his course. In his instructions to the peace commissioners, as quoted in his letter, he said: “We took up arms only in obedience to the dictates of humanity and in the fulfilment of high public and moral obligations. We had no design of aggrandizement and no ambition of conquest.” A little later, in announcing his decision to take the whole archipelago, he told the commissioners that “he has been influenced by *the single consideration of duty and humanity*.” And later still he said: “The trade and commercial side, as well as indemnity for the cost of the war, are questions we might yield. They might be waived or compromised, but the questions of duty and humanity appeal to the President so strongly that he can find no appropriate answer but the one he has here marked out.”

“*The single consideration of duty and humanity*.” “On the 12th of August,” says the President, “hostilities were suspended, and a protocol was signed with a view to arranging terms of peace between the two governments.” On the very next day Secretary Long sent the following telegram to Admiral Dewey: “The President desires to receive from you any important evidence you may have of the Philippines; the desirability of the several islands; the character of their population; coal and other mineral deposits; their harbor and commercial advantages; and, in a naval and commercial sense, which would be the most advantageous.” Some very

commercial considerations seem to have engaged the President's attention at the very moment when he began to consider the terms of peace. The admiral's advice was not asked as to the requirements of humanity. What was in Senator Lodge's mind when he said at Philadelphia last June, "We make no hypocritical pretence of being interested in the Philippines solely on account of others"? *Who has made the pretence which the senator so harshly characterizes?*

The President is right when he says, "The purposes of the executive are best revealed by what he has done and is doing." The President states in his instructions to the Peace Commissioners, "We must either hold them [the Philippines] or turn them back to Spain." It seems inconceivable that the third course, the one which the people themselves desired, should not have occurred to him; but, if it did, he does not allude to it in the instructions quoted. Why should not the President of the United States think of giving the Filipinos their independence,—the same independence we had but just promised the Cubans? It was the obvious course, according to every American principle and precedent.

It is suggested that, if we did free them, some other nation would conquer them. We might at least have tried to reach an understanding with other nations that the independence of the Philippines should be respected. By such negotiations we were told that our right to the "open door" in China was secured. Such an understanding preserves the independence of Switzerland. Was not the attempt worth making? Had the President been sincere in his desire to avoid territorial aggrandizement, would he not have made it? The mutual jealousy of the great powers would have insured success, but the attempt was never suggested. The President preferred to use the danger of European aggression as an excuse for his own aggression.

This cry that foreign nations want territory which we wish to annex is old and worn. Thirty years ago President Grant urged the purchase of Samana Bay on the ground that, if we rejected the opportunity, some other nation would take it, and "a large commercial city will spring up, to which we shall be tributary without receiving corresponding benefits." The bare shores of Samana Bay are a standing refutation of such prophecies.

Let us pass now to another statement made by the President. "The American people are asked by our opponents," he says, "to

yield the sovereignty of the United States in the Philippines to a small fraction of the population — a single tribe out of eighty or more inhabiting the archipelago. We are asked to transfer our sovereignty to a small minority in the islands, without consulting the majority, and to abandon the largest portion of the population which has been loyal to us to the cruelties of the guerilla insurgent bands, and to this end repress all opposition of the majority." I forbear to characterize this statement, made by the chief magistrate of this nation. I will content myself with stating the facts, leaving you to draw your own inferences and to select your own adjectives.

In the first place, no one has asked the President to transfer the sovereignty of the United States to any one. The Filipinos deny that we have any sovereignty to transfer. His opponents in this country insist that we should deal with the Philippines as we promised to deal with Cuba; that we should let the people of the islands,— not a "single tribe," not "a small fraction of the population," but the whole people acting by a majority,— establish their own government without interference from us. No one but the President and his advisers has ever asked that anything should be done in the islands "without consulting the majority." No one else has ever suggested that we should "repress all opposition of the majority." It is he and his party who would consult neither majority nor minority, but would impose upon both the absolute rule of the United States. It is they who are to-day repressing "all opposition" from either. I challenge the President and his supporters to produce a single word from any of his opponents which justifies his statement of their position.

But if it were true, if he were asked to place the control of the islands in the hands of "a small minority without consulting the majority," is he in a position to object? Can there be a smaller minority than one? Yet in the Sulu Islands he turned over to the Sultan the control of a whole population, paying him tribute, and agreeing to protect the Moros against foreign nations. Here slavery and polygamy flourish to-day under our flag, and a minority of one is in control.

How was it in the Hawaiian Islands, where about three per cent. of the population, with the support of the administration, have sacrificed the independence of their country and surrendered it to the United States? Did the President insist then that the majority

of the people, including substantially all the Hawaiians, should be consulted? Here, as in the Sulu Islands, when it suited his purpose the majority was ignored.

Nay even in the Philippines the President tells us that in May, 1899, his commissioners negotiated "with leading Tagalogs representing the so-called insurgent government, to the end that some general plan of government might be offered them which they would accept"; and he quotes his despatch of May 5 to Mr. Schurman, proposing a government under the absolute control of the United States. He was willing by negotiations with a few representatives of this "single tribe out of eighty or more" to determine the government of the islands without consulting the other seventy-nine tribes. Yet in the face of this record he charges his opponents with desiring to establish the rule of a minority. He has wonderful confidence in the credulity of the people.

But the worst is not yet. The President would have his countrymen believe that only "a small fraction of the population" is resisting our rule, while "the largest portion of the population has been loyal to us." These are assertions which have never been supported by any evidence; which, on the other hand, are inconsistent with established facts and are contradicted by unimpeachable witnesses.

At the very outset, how probable does it seem that "a single tribe out of eighty or more" should for two years resist, not only the other seventy-nine tribes, but an army of American soldiers equipped with the best appliances of modern war? What must be their courage, their intelligence, their vigor, when an army of sixty-five thousand men is still needed to help a majority of the people hold this "small fraction" down? There are some propositions which are suspicious on their face.

What are the facts? We have some of them stated in the report made by Senator Lodge for the Committee on the Philippines, "Senate Document 171, 56th Cong. 1st Sess." Mr. Wilcox, of the Census Bureau, is quoted in this report as giving the population of the group as about 7,000,000, which he thinks an underestimate. "The inhabitants of the Philippines," says the report, "belong to three sharply distinct races,— the Negrito race, the Indonesian, and the Malayan race. It is universally conceded that the Negritos of to-day are the disappearing remnants of a people which once populated the entire archipelago," while now "but a few scattered

and numerically insignificant groups of them remain. . . . It is believed that not more than 25,000 of them exist in the entire archipelago, and the race seems doomed to early extinction." This report gives a table of eighty-four tribes, and was evidently the source upon which the President relied when he spoke of "a single tribe out of eighty or more." In these tables twenty-one tribes out of the eighty-four are given as belonging to the Negritos, so that one-quarter of the President's eighty tribes are described in the report as "a few scattered and numerically insignificant groups" of a race apparently "doomed to early extinction." Numerically and otherwise, they are as insignificant a part of the population as are the Norridgewock Indians in Maine or the Mashpees in Massachusetts. Could these facts be gathered from the President's statement?

Taking the next group, we find from Mr. Lodge's report that the Indonesian race is confined to Mindanao. There are sixteen tribes which belong to it,—one-fifth of the President's eighty. The numbers are in some cases estimated, and the whole sixteen are said to comprise about 250,000 people. We therefore find that thirty-seven out of the eighty tribes contain only 275,000 out of more than seven million people. The other tribes, forty-seven in number according to the report, are Malays; and of these eight, including the Moros who are given as 100,000, number about 6,350,000 people, leaving for the other thirty-nine tribes about 375,000 people. This conclusion is borne out by the report, which either does not give the numbers of a tribe or gives it a small number. We therefore find that, out of eighty-four tribes, seventy-six contain only about 650,000 people, if so many. "In the catalogue you stand for men."

Let me call, to confirm my conclusion, the President's own witness, President Schurman, who, in a magazine article published this month, says that he went to the Philippines with the theory that the inhabitants were divided into tribes and were to be governed through their native rulers. He found, however, that, while Spain three hundred years ago found "tribal Indians governed by their chieftains, . . . these hereditary chieftains had everywhere disappeared. . . . Spanish dominion in the course of three centuries made itself completely effective among the 6,500,000 of Filipinos." In the Sulus his plan was adopted; but he says, "There still remain the vast majority of the people of the Philippine Islands to deal

with, the 6,500,000 of more or less civilized people occupying Luzon and the Visayan Islands." It is Mr. Schurman's "vast majority" that the President describes as "a single tribe out of eighty or more, . . . a small fraction of the population." Did Mr. Schurman conceal the truth from his chief?

Nothing in the President's language would lead the reader to imagine the relative importance of his "eighty tribes or more," but the facts were before him. The report says, "The civilized and Christianized peoples, although few in number, include the majority of the inhabitants"; and it showed how large that majority was. I have quoted from Senator Lodge and President Schurman, the President's own witnesses; and, when we compare their statements with the President's language, what can we say? I leave you to answer whether the President's statements convey a true impression.

Suppose France at the end of the Revolution had counted the tribes of Indians in North America, would she not have made a list far larger than the President's? The Mashpees, the Cherokees, the Choctaws, the Ojibways, the Sioux,—time would fail me to begin their enumeration. Suppose she had added the negroes, whom our fathers held as slaves, and the loyalists, who opposed our government, what an argument could have been made by Louis XVI. against recognizing our independence, had he adopted Mr. McKinley's theory? Does it strike you, citizens of Massachusetts, that the argument would have been sound? Have you not courage and virtue enough to test this argument of the President as your fathers would have tested it, had it been used by the King of France?

"We are asked," says the President, "to transfer our sovereignty to a small minority in the islands without consulting the majority, and to abandon the largest portion of the population, which has been loyal to us, to the cruelties of the guerilla insurgent bands." Is it true that only a small minority oppose us? Is it true that "the largest portion of the population has been loyal to us"? Has any one ever produced any evidence that the majority of the population are friendly to our rule? The whole situation for two years contradicts this assertion. Where are our friends? Where are the manifestations of loyalty? Mr. Albert E. Robinson, the well-known correspondent who has been in the Philippines during this trouble, and who speaks from personal knowledge, writes,—

"Notwithstanding assertions to the contrary, our opponents there constitute at least three-fourths of all the people of the islands; and they comprise, with a few isolated exceptions, the great mass of the more intelligent of the people."

Says Chaplain McQueen, after serving as chaplain with a regiment in active service,—

"There is not a Filipino in the islands that wants the American form of government."

John Foreman, a resident in the archipelago for eleven years, familiar with the people and the facts, especially summoned to Paris as an expert by our Peace Commissioners, an Englishman who is friendly to us and in no way concerned in our politics, writes in the *National Review* for September:—

"The probability of the Americans ever gaining the sympathy and acquiescence of the natives is very remote. Unless the Americans are prepared to maintain a large permanent army in the islands, there seems to be no prospect of their ever being able to administer the interior of the archipelago. Their whole system of government, which might appear to the Anglo-Saxon mind reasonable enough in principle, clashes everywhere with the instincts, ideas, traditions, and aspirations of the Filipinos."

Mr. Bass, the correspondent of the *New York Herald* and *Harper's Weekly*, who went to the Philippines at the beginning, and is thoroughly conversant with the facts, writes after a trip in the southern part of the archipelago:—

"The only friendly natives I found on my southern tour were those at Moros, who, so far, are unwilling that we should hold any territory except the single walled town of Iolo. Even the non-combatants hate us. In Manila the native feeling against us is growing stronger every day."

These gentlemen not only state the facts, but give the reasons, in a long catalogue of the injuries which we have done the Filipinos and of the abuses which have grown up under our rule.

Let us take a final bit of evidence in the despatch to the Associated Press of July 30, 1900, carefully "edited by the censor." This chronicles the attempt of some Filipinos to celebrate in Manila the proclamation of amnesty. Surely, in Manila, under the guns of our fleet and at the very headquarters of our army, our friends could show their loyalty. Here are no guerilla bands to terrify them, but ample protection on every side. But even the

censor says the attempt "resulted in a *fiasco*. The people were passive, unenthusiastic, and not even interested. . . . The provost's precautions were extreme. The guards were doubled both days, and the authorities forbade the display of Filipino flags and of pictures of President McKinley and Aguinaldo fraternally framed." . . . "Judge Taft and his colleagues of the commission felt constrained to decline to attend the banquet, as they had been informed that the speeches would favor independence under American protection. . . . The *fiesta* is generally considered to have been premature and unfortunate."

If the censor, instructed to let nothing go that can hurt the administration, confesses all this, how much worse was the truth? What facts did his editing suppress? Take his own statements, however, and where is the President's loyal majority? Even those who wished to praise his amnesty were going to demand their independence. Even in the centre of Manila, in the very heart of our army, the President's commissioners could not dine with their most loyal supporters, while the mass of the people, suppressed by doubled guards, were "passive and unenthusiastic." These are censor's words. They mean "sullen and hostile." This testimony might be multiplied; but is it necessary? This glimpse of Manila with its subject but unreconciled people is enough.

What can we expect? What have we done to inspire affection or confidence? The Filipinos are men; and as such they cannot but hate the invaders who have killed them by thousands, burned their towns, and laid waste their country. No Filipino can love us unless we have bought his love; and the claim that a majority of them are loyal—with no evidence to support it, and every probability, every fact, against it—is an audacious draft upon the ignorance, the credulity, the party spirit, of the American people.

But we cannot dismiss the President's statement here. "We are asked," he says, "to abandon the largest portion of the population, which has been loyal to us, to the cruelties of the guerilla insurgent bands." It is difficult to discuss with proper reserve this statement. We do not blame the President for refusing to turn peaceful men over to the mercies of robbers, but for doing it. In the summer of 1898 the people of the Philippine Islands, under the lead of Aguinaldo and his associates, established a republican government, which, until President McKinley overthrew it by military force, governed peacefully and well the whole archipelago out-

side the city of Manila, the domains of the Sulu Sultan, and perhaps some remote and inconsiderable islands. I do not ask you to take my word for this. I quote from John Barrett, the thick-and-thin supporter of the powers that be. On January 16, 1899, he wrote of Aguinaldo that he had "known him and most of his officers well, and watched him during the long period that elapsed since I saw him put aboard the United States despatch boat in Hong Kong Harbor last May, by permission of Admiral Dewey and Consul-general Wildman, for the direct purpose of going to Cavite to organize an army and temporary government and make war on the Spaniards, in co-operation with the American forces." And he then described his success in these words: "He organized an army out of nothing, which he has now gradually developed into a force of 30,000 men, armed with modern rifles. He captured all Spanish garrisons on the island of Luzon, outside of Manila. . . . Moreover, he has organized a government which has practically been administering the affairs of that great island since the American occupation of Manila, and which is certainly better than the former administration. He has a properly formed cabinet and congress, the members of which, in appearance and manners, would compare *favorably* with Japanese statesmen. He has among his advisers men of acknowledged ability as international lawyers, while his supporters include most of the prominent educated and wealthy natives." Of the Congress he wrote: "These men, whose sessions I repeatedly attended, conducted themselves with great decorum, and showed a knowledge of debate and parliamentary law that would not compare unfavorably with the Japanese Parliament. The executive portion of the government was made up of a ministry of bright men who seemed to understand their respective positions."

I wonder what American statesman or soldier with American citizens could have done more than Aguinaldo did in so short a time. Let me quote a passage from the report of Messrs. Sargent and Wilcox, who, with Admiral Dewey's permission, spent the greater part of October and November, 1898, in a journey through the western and northern part of Luzon, and of whose report Admiral Dewey said that it contained, in his opinion, "the most complete and reliable information obtainable in regard to the present state of the northern part of Luzon Island."

Mr. Sargent writes, "As a tribute to the efficiency of Aguinaldo's

government and the law-abiding character of his subjects, I offer the fact that Mr. Wilcox and I pursued our journey through in perfect security, and returned to Manila with only the most pleasing recollections of the quiet and orderly life which we found the natives to be leading under their new régime," Mr. Sargent testifies freely to the intelligence and refinement of the natives,—to their education, their hospitality, their temperance, their patriotism, — and adds this interesting statement: —

"There is a variety of feeling among the Philippines in regard to the debt of gratitude they owe the United States. In every town we found men who said that our nation had saved them from slavery, and others who claimed that without our interference their independence would have been recognized before this time. On one point they were united, however; viz., that, whatever our government may have done for them, it has not gained the right to annex them."

It is this government, resting upon the cordial assent of the people and fulfilling all the functions of government, that the President brutally overthrew. It is for this that his opponents blame him. It is such a government as this that the Filipinos would restore, were it not for his army. And to call such a government "a guerilla band" is as deceptive as it is to compare the civilized and Christian Filipinos with "Apaches and Boxers."

This government is destroyed; some of the prosperous cities which it ruled, like Pasig, the second city in Luzon, are in ashes; many of its prominent members and supporters are dead or in hiding; thousands of the men who loved it have been slain. And what is the result? Let John Foreman answer: —

"The total area of the archipelago is computed at 52,500 square miles, of which the Americans barely occupy one five-hundredth part in places inaccessible by water. Small detachments are stationed here and there, but the troops so employed do not dominate a radius larger than the range of their muskets. They are constantly watched by armed natives. And troopers who have ventured alone a mile outside the village have seldom returned alive."

Let the Associated Press despatches, censored as they are, tell as much of the truth as the censor dares to pass: —

"MANILA, July 26.— At Oroquieta, in northern Mindanao, two soldiers entered a native store to buy some food. While there,

one of them was killed by a bolo, and his head severed from his body. The other escaped, and gave the alarm. A company of the Fortieth Infantry stationed at Cagayan proceeded to Oroquieta, and killed eighty-nine natives. Subsequently the gunboat, Callao, commanded by Lieutenant George B. Bradshaw, shelled Oroquieta, burning the warehouses. One of the crew was killed."

What led to the attack on the soldier is not stated; but in revenge eighty-nine persons were killed by the army, and the town was shelled and partly destroyed by the navy. It was in March, 1900, that the President instructed his commissioners that "upon every department and branch of the government of the Philippines must be imposed these inviolable rules,—that no person shall be deprived of life, liberty, or property without due process of law." This summary massacre by our forces in revenge for the death of one man is a practical comment on these high-sounding instructions. What "guerilla insurgent band" could have visited greater "cruelties" on the people of this town than the forces of the United States in their work of "benevolent assimilation"?

Some men close their ears to all that reflects upon our soldiers. What say they to the report of General MacArthur, returning the finding of a court-martial, that a captain was guilty of torturing two and a lieutenant of torturing five Filipino prisoners, "by causing them to be hanged by their necks for about ten seconds each"? What was their punishment? They were reprimanded by reminding them "that by reckless defiance of the ethics of their profession they have inflicted incalculable injury upon the interests of their country, and have also cast an unwarranted aspersion upon the reputation of the United States army for sentiments of honor and humanity." I find in this report no word of sympathy for the victims or real indignation at the cruelty. It is the injury to the United States that alone is regarded.

I could fill my speech with such cases, which are proofs of the only anarchy that has existed in the islands since the surrender of Manila,—the anarchy for which President McKinley and his advisers are directly responsible. To quote again from John Barrett, would it not have been "far better for the United States to treat this leader and his people with caution and consideration, eventually obtaining the end to be desired without serious loss of life and great expense, rather than peremptorily demand his absolute surrender, be forced into a most unhappy conflict, which would

from its guerilla nature mean the loss of hundreds of good lives, the expenditure of large sums of money, and, saddest and worst of all, the development of a feeling of hatred and revenge toward Americans among 8,000,000 of subject natives, which the kind treatment of a hundred years cannot remove"?

This was the advice of Barrett in January, 1899, before a shot was fired. He saw that the President's policy could lead to but one result; and he saw also no loyal majority, but 8,000,000 of hostile Filipinos. His prophecy has been realized to the letter. It is because the President has done these things, and because he promises to pursue this stupid and bloody policy to the bitter end, that we condemn him and oppose his continuance in power. Let him meet the real issue, and not evade it by such a mass of misleading statements as I have quoted and exposed. He owes us at least the truth.

Understanding from what has been said how the President uses language, we can appreciate better the meaning of this sentence: "It is our purpose to establish in the Philippines a government suitable to the wants and conditions of the inhabitants, and to prepare them for self-government, and to give them self-government when they are ready for it, and as rapidly as they are ready for it." Self-government means independence. The Republican party proposes nothing of the kind. Their platform promises only that "the largest measure of self-government consistent with their welfare and our duties shall be secured to them by law." "That one phrase," says Senator Hoar, "conveys to a free man and a free people the most stinging of insults." This offers no independence, no statehood, no American citizenship, no constitutional rights, only such privileges as *we think* "consistent with their welfare and our duties." This is just what the Czar of Russia allows his subjects, — as much liberty as he thinks fit. Every tyrant grants this, but it is not self-government. It is government by a foreign power without the consent of the governed, — a government which may be changed at pleasure by the governors against the will of the governed. Is this self-government as we understand it in Massachusetts? Read the Declaration of Independence, and ask yourselves what the President ~~really means~~ by saying "our priceless principles undergo no change under a tropical sun."

To these words of the men who call themselves Republicans let us oppose the words of Abraham Lincoln, who was a Republican:

"These arguments that are made that the inferior race are to be treated with as much allowance as they are capable of enjoying, that as much is to be done for them as their condition will allow, — what are these arguments? They are the arguments that kings have made for the enslaving of the people in all ages of the world. You will find that all the arguments of king-craft were always of this class: they always bestrode the necks of the people, — not that they wanted to do it, but because the people were better off for being ridden. . . . Turn it every way you will, — whether it come from the mouth of a king as an excuse for enslaving the people of his country, or from the mouth of men of one race as a reason for enslaving the men of another race, — it is all the same old serpent."

Power thus to determine the rights of others is never voluntarily abandoned. Two hundred years of British rule in India have brought the people no voice in their government. Says Creasy: "There has never been a republic yet in history that acquired dominion over another nation that did not rule it selfishly and oppressively. There is no single exception to this rule either in ancient or modern times." We may add that in every case this oppression has proved fatal to the liberty of the oppressors.

The Republicans seek to divert discussion by telling us of our "full dinner-pails." What an insult is this! What does it mean? These would-be leaders of their country say to us: "Do not discuss or consider questions of national policy, human freedom, moral right. Are not your stomachs full? What else concerns you?" So might the farmer address the swine which he was fattening for future slaughter. Are we sunk so low that such arguments are believed to outweigh considerations of right and wrong? What these men really mean is, "Let us pursue a policy which will fill our pockets, and we will give you enough to fill your stomachs." This is, indeed, imperialism.

Let me conclude by stating the situation briefly. When we declared war against Spain in 1898, we resolved that Cuba was free and independent. Why? Spain held it by an undisputed title, controlled its cities, its ports, its coast, and maintained in it the only organized government. Some of the people had been for years in unsuccessful insurrection, but they had no organized government which had any claim to be recognized as such. Why, then, did we declare Cuba free? Only because, in our judgment, Spain's title had been forfeited by her cruel method of dealing

with the insurgents. If Cuba was "free and independent," Spain had no sovereignty which she could sell. An independent people is its own sovereign.

If cruelty in dealing with an unsuccessful rebellion forfeited Spain's title in Cuba, why did not the same cause produce the same effect in the Philippine Islands? There was rebellion, there were cruel methods; and, when we began to negotiate peace with Spain, there was successful rebellion in full control of the Philippines, with an organized government recognized throughout the islands save in the Sulus, and in Manila which we occupied. Why was Cuba free and independent, and the Philippines not so? No distinction can be stated that will justify our course. The evidence is abundant that the Filipinos were vastly better fitted for self-government than the Cubans. We have only to remember what aid the Cubans gave us at Santiago, and what Aguinaldo's forces accomplished in Luzon to recognize the difference. By the rule which we laid down at the very outbreak of the war, and by all the principles of our government, the Philippines were, "and of right ought to be, free and independent."

The President of the United States in an evil moment determined to acquire them, and from that time till now he has pursued his object relentlessly. The perfidy which masked his purpose of conquest from the unhappy Filipinos, while their aid was needed in expelling Spain, has been exposed by others. I will not repeat the work. The evidence is contained in the magnificent speech of Senator Hoar, whose statements directly contradict the assertions of the President as to almost every essential fact. Looking through the dust of evasion and misrepresentation, of concealment and false suggestion, by which his course has been excused, certain facts are clearly apparent. The United States of America, the friend of every nation struggling for freedom, is engaged in the work of conquering an Asiatic people whose only offence is their love of liberty. In the words of Mr. Robinson, "An un-American policy and a blundering diplomacy have turned the Philippine islands into a chaos and a graveyard." We have visited them with all the horrors of war, we have killed their best and bravest citizens, we have made a desert of their fertile plains, we have laid their towns in ashes; and the President tells us that it is our duty to do this,—that thus we advance the cause of liberty and humanity. Disguise it as he will by these professions, which

Mr. Lodge thinks "hypocritical," the real motive of this crime is apparent. It is avowed by Commissioner Denby, by Senator Beveridge, by Senator Lodge. It is recognized by the American people. It is not what we can do for the Filipinos that we consider, but what we can win of power, money, consideration for ourselves, that really has tempted the administration. As Commissioner Denby put it, "The cold, hard practical question alone remains, — Will the possession of these islands benefit us as a nation? If it will not, set them free to-morrow, and let their peoples, if they please, cut each other's throats." There is nothing of duty, destiny, or hypocrisy about this statement.

The manifesto of the Filipinos sent to Luzon before the American squadron showed with what expectations they acted: "Compatriots, Divine Providence is about to place independence within our reach. . . . There where you see the American flag flying assemble in numbers. They are our deliverers." Aguinaldo's proclamation on May 24 confirmed their confidence: "Filipinos, the great nation, North America, cradle of liberty and friendly on that account to the liberty of our people, . . . has come to manifest a protection . . . which is disinterested toward us, considering us with sufficient civilization *to govern by ourselves* this our unhappy land." When these words were uttered, was there a man or woman in America who did not believe that they were true? When and where again in this wide world will any man or any people struggling for freedom see in the American flag any hope of deliverance. Who has thus degraded us in the eyes of mankind?

The canting talk that God approves this policy, that it is our duty to conquer this people, belongs to a darker age than ours. If God wills that we should govern them, why does he inspire them to resist so desperately? The God of the Ten Commandments, the God of Christianity, the God of our fathers, has not changed his law.

"For He that worketh high and wise,
Nor pauses in his plan,
Will take the sun out of the skies
Ere freedom out of man."

I can imagine no greater blow to the cause of human liberty, to the cause of Christianity, to the cause of right everywhere, than a deliberate decision of the American people to pursue this policy of

conquest and sordid greed,— to set the seal of their approval upon the man and the methods by which they have been brought to their present pass. I care little who is elected, so that the people set themselves right. To have them turn their backs upon the Declaration of Independence and the Golden Rule, to have them abandon all their ideals as a nation and adopt the pagan dogma, "might makes right," would be as great a disaster to the world as I can imagine. As Emerson said, "All our political disasters grow as logically out of our attempts in the past to do without justice as the sinking of some part of your house comes of defect in the foundation." We have tried injustice to four millions of slaves at home till "every drop of blood drawn by the lash" was "paid by another drawn by the sword." Are our memories so short that we think it wise to repeat the experiment on a larger scale, and try to make ten millions of men our vassals? Before we harden our hearts like Pharaoh, and persist in our career of conquest, let us remember the words of Froude: "If there be one lesson which history clearly teaches, it is this, that free nations cannot govern subject provinces. If they are unable or unwilling to admit their dependencies to share their own constitution, the constitution itself will fall in pieces through mere incompetence for its duties." It is this lesson which Lincoln taught more briefly: "Those who deny freedom to others deserve it not for themselves, and under a just God cannot long retain it."

I would have my country spared the sure consequences of injustice, the inevitable penalty of national degradation which must follow the sacrifice of all our principles. I would have her still remain the hope and the leader of mankind, and not the imitator of the sordid empires which have successively risen to dazzle with material splendor and then to sink into decay. May it not be said that through our unworthiness the trust bequeathed to us by our fathers failed, and "government of the people, by the people, and for the people" perished from the earth!

